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14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 UNITED STATES OF AMERICA,) CV 06-1971 SJO(AJWx)
18 Plaintiff,)
19 vs.) FINAL CONSENT JUDGMENT OF
20 \$1,573,099.93 IN BANK ACCOUNT) FORFEITURE
21 FUNDS, ET AL.,) [This consent judgment is case-
22 Defendants.) dispositive.]
23)
24)
25)

26 Plaintiff commenced three civil in rem forfeiture actions
27 now pending in the United States District Court for the Central
28 District of California: (1) United States of America v.

JS6

1 \$1,573,099.93, Case No. CV 06-1971 SJO (AJWx); (2) United States
 2 of America v. \$35,000 in U.S. Funds, et al., Case No. CV 07-0107
 3 SJO (AJWx) (these two actions are collectively referred to as
 4 the "Monetary Actions"); and (3) United States of America v.
 5 Real Property Located in Diamond Bar, California (Tringham),
 6 Case No. CV 06-0609 SJO (AJWx) ("Diamond Bar Action"). (The
 7 Monetary Actions and the Diamond Bar Action are collectively
 8 referred to as the "In Rem Actions.")

9 This instant action was filed on March 31, 2006.
 10 Plaintiff seeks forfeiture of \$1,573,099.93 in bank account
 11 funds and \$52,269.09 as a substitute res for a 2006 Land Rover
 12 Ranger (the "defendant assets"). Notice was given and published
 13 in accordance with law. On May 23, 2006, a First Amended
 14 Complaint was filed. Docket Number ("DN") 8. On July 5, 2006,
 15 Hui Cindy Wang ("Wang") [pro se] filed a claim to the defendant
 16 \$52,269.09 as a substitute res for a 2006 Land Rover Range
 17 Rover.¹ Robert Tringham ("Tringham"), who was formerly the
 18 president and owner of First National Ban Corp. ("FNBC") and
 19 First Asset Management Corp. ("FAMC"), also filed a claim to all
 20 the defendant assets on July 5, 2006. DN 11. Plaintiff filed a
 21 Second Amended Complaint on November 8, 2007. DN 41. On April
 22 18, 2008, Tringham, FNBC and FAMC, through counsel, filed claims
 23 and an answer to the Second Amended Complaint. DN 47-50. On or
 24 about January 13, 2012, Robb Evans & Associates LLC ("Robb
 25 Evans"), the receiver of Finbar Securities Corp. ("Finbar")

26 ¹ On July 2, 2012, on motion of the government, the court struck
 27 the claim of Wang and entered her default because she failed to
 28 file an answer or otherwise defend her interests in this action.
 DN 107.

1 filed a claim and answer to the Second Amended Complaint because
2 FNBC and FAMC were believed to be subsidiaries or affiliates of
3 Finbar.² DN 86-87. On September 19, 2012, a Consent Judgment of
4 Forfeiture as to Tringham was entered, resolving the claims of
5 Tringham. DN 113. No other claims or answers have been filed,
6 and the time for filing claims and answers has expired.
7 Plaintiff and Receiver have reached an agreement that is
8 dispositive of the remaining claims in this action, and have
9 requested that the Court enter this Consent Judgment of
10 Forfeiture.

11 The government has alleged that Tringham conducted
12 fraudulent schemes in the names of FNBC. Tringham also used
13 entities named First Asset Management Corporation ("FAMC"),
14 Colony Mortgage Banc ("CMB") and Capital Ban Corp ("CBC").
15 Victims of Tringham's fraudulent schemes perpetrated in the
16 names of or through FNBC, FAMC, CMB and CBC are collectively
17 referred to as the "Non-Finbar Victims." Victims of Tringham's
18 fraudulent schemes perpetrated in the name of Finbar are
19 referred to as the "Finbar Victims."

20 Tringham was arrested, convicted and sentenced to prison in
21 connection with one or more of the fraudulent schemes
22
23

24 ² The Receiver was appointed pursuant to a Preliminary Injunction
25 and Judgment of Permanent Injunction issued on April 13, 2009 in
26 Securities and Exchange Commission v. Finbar Securities Corp.
27 and Robert Tringham, et al., CV 09-2325 ODW(VBKx). Pursuant to
28 that litigation, the Receiver was appointed as receiver over
Finbar and its affiliates and subsidiaries. FNBC and FAMC are
believed to be two such affiliates and/or subsidiaries of
Finbar.

1 perpetuated in the names of or through Finbar, FNBC, FAMC, CMB
2 and CBC.

3 Plaintiff and the Receiver have engaged in extensive and
4 lengthy negotiations in an effort to resolve their disputes and
5 differences. These negotiations have, from time to time,
6 included the Asset Forfeiture and Money Laundering Section of
7 the Department of Justice in Washington, D.C ("AFMLS") and the
8 Securities and Exchange Commission ("SEC"). AFMLS agreed to
9 undertake a non-binding victim remission and restoration process
10 ("Claims Process") whereby, among other things, AFMLS reviewed
11 and approved the proposed allowed claims for all Finbar Victims
12 and Non-Finbar Victims to be paid from the Defendant Assets, as
13 more particularly set forth herein. The proposed allowed claims
14 for Finbar Victims were submitted to AFMLS by the Receiver. The
15 proposed allowed claims for Non-Finbar Victims were submitted to
16 AFMLS by such victims. AFMLS has made proposed allowed claims
17 determinations in connection with the distribution of the
18 Defendant Assets, based on the claims that were submitted and
19 other relevant information. Plaintiff and the Receiver agree
20 with the proposed allowed claims as determined by AFMLS in its
21 Claims Process and seek to have the AFMLS claims determinations
22 made final and binding.

23 **WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

24 1. Forfeiture of Defendant Assets

25 All of the Defendant Assets in the In Rem Actions
26 shall be forfeited, less a sum not exceeding \$125,000 which will
27 be withheld from the defendant assets in the instant case to pay
28 the fees and expenses of the Receiver and its counsel as may be

1 allowed by the Court in the SEC Action and to the extent that
 2 the receivership estate has insufficient assets to pay such fees
 3 and expenses otherwise ("Withheld Assets"). (The Defendant
 4 Assets less the Withheld Assets are referred to as the
 5 "Forfeited Assets." The Forfeited Assets, less a minor amount
 6 of costs attributable to the Claims Process, and the costs to be
 7 incurred and liens to be paid in connection with the sale of the
 8 Diamond Bar Property, are referred to as the "Net Forfeited
 9 Assets.")

10 2. Finbar Victims Allowed Claims

11 The claims of Finbar Victims shall be allowed in the
 12 aggregate amount of \$8,787,656.25 as follows:

13	Name	Allowed Claim Amount
14	(a) Juergen Votteler	\$2,273,810.47
15	(b) Werner Weber	\$1,287,880.00
16	(c) Mattias Baumeler	\$1,000,100.00
17	(d) Peter Wuergatsch	\$1,100,070.00
18	(e) Jeri Tulipan	\$762,788.05
19	(f) Manfred Trocha	\$1,963,355.25
20	(g) Meera Anstalt	\$399,652.48

21 The claims of Finbar Victims as set forth above shall be
 22 referred to as "Finbar Victims Allowed Claims."

23 3. Non-Finbar Victims Allowed Claims

24 The claims of Non-Finbar Victims shall be allowed in
 25 the aggregate amount of \$6,351,137. To protect the privacy
 26 rights of the Non-Finbar Victims, the names of the Non-Finbar
 27 Victims and itemized amount of each Non-Finbar Victim's claim
 28 are not included in this Consent Judgment. However, the

1 government has presented to the Receiver the name of each Non-
 2 Finbar Victim and the amount of each Non-Finbar Victim's claim
 3 by written transmittal made to the Receiver on or about April 1,
 4 2013. The Receiver has agreed to those claims and the aggregate
 5 amount of the claims is as set forth in this paragraph. The
 6 claims of Non-Finbar Victims as set forth in this paragraph
 7 shall be referred to as "Non-Finbar Victims Allowed Claims."

8 4. Calculation of Distribution Percentages

9 The Finbar Victims Allowed Claims and the Non-Finbar
 10 Victims Allowed Claims are collectively referred to herein as
 11 the "Allowed Claims." The Allowed Claims shall be used for the
 12 purpose of calculating distributions to Finbar Victims and Non-
 13 Finbar Victims from the Net Forfeited Assets, as described in
 14 this paragraph. Net Forfeited Assets shall be distributed by
 15 the government to the Finbar Victims and the Non-Finbar Victims
 16 on a pro rata basis, with each victim's share of the Net
 17 Forfeited Assets to be determined by taking such victim's
 18 Allowed Claim and dividing it by \$15,138,793.36, the aggregate
 19 total of all Allowed Claims. The pro rata share of the Net
 20 Forfeited Assets for each Finbar Victim (the "Finbar Victims
 21 Distribution Percentages") is as follows:

22	Name	Distribution Percentage
23	(a) Juergen Votteler	.15020
24	(b) Werner Weber -	.08507
25	(c) Matthias Baumeler -	.06606
26	(d) Peter Wuergatsch -	.07267
27	(e) Jeri Tulipan -	.05039
28	(f) Manfred Trocha -	.12969

1 (g) Meera Anstalt - .02640

2 Plaintiff and the Receiver understand and agree that the
3 percentages herein, rounded five places, may not reflect the
4 exact percentage on their distribution ultimately made by the
5 government from the Net Forfeited Assets to the Finbar Victims
6 on their Allowed Claims, but that a change from the eventual
7 distribution to the Finbar Victims, if any, shall be de minimis
8 and only as the result of minor rounding variances.

9 5. No other person or entity shall participate in the
10 distribution of Net Forfeited Assets other than the holders of
11 Finbar Victims Allowed Claims and Non-Finbar Victims Allowed
12 Claims, or their legal successors or assigns. The Allowed
13 Claims may not be amended or revised in any manner.

14 6. As soon as practicable after entry of all of the In
15 Rem Judgments, the government shall cause to be marketed and
16 sold the Diamond Bar Property consistent with the government's
17 procedures for the marketing and sale of forfeited real
18 property.

19 7. As soon as practicable, the Receiver shall bring a
20 motion before the Court in the SEC Action seeking approval of
21 all unpaid fees and expenses incurred by the Receiver and its
22 counsel ("Fee Motion"). After the Court enters an order on the
23 Fee Motion, the Receiver shall provide a written accounting to
24 the government demonstrating the extent to which Withheld Assets
25 must be disbursed to the Receiver to pay any allowed and unpaid
26 fees and expenses. Any dispute concerning the extent to which
27 the Withheld Assets must be disbursed to the Receiver shall be
28 resolved on motion before the Court in the SEC Action. The

1 government shall promptly disburse to the Receiver the amount of
 2 Withheld Assets needed to pay all allowed and unpaid fees and
 3 expenses after receipt of the written accounting from the
 4 Receiver or, if necessary, after the Court in the SEC Action
 5 resolves any dispute concerning the extent to which the Withheld
 6 Assets shall be disbursed to the Receiver.

7 8. As soon as practicable after the later of the sale of
 8 the Diamond Bar Property pursuant to paragraph 6, above, and
 9 disbursement of Withheld Assets to the Receiver pursuant to
 10 paragraph 7, above, the government shall cause the distribution
 11 of the Net Forfeited Assets, including unused Withheld Assets,
 12 if any, to the holders of Allowed Claims, including without
 13 limitation, to all of the holders of Finbar Victims Allowed
 14 Claims in the amount of the Finbar Victims Distribution
 15 Percentages.

16 9. The Court shall retain jurisdiction over this matter to
 17 enforce the provisions of this Consent Judgment.

18 

19 Dated: September 24, 2013 JS-6

20 THE HONORABLE S. JAMES OTERO
 21 UNITED STATES DISTRICT JUDGE
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[Signatures of counsel appear on following page]

1 Approved as to form and content:

2
3 DATED: September 20, 2013

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ROBERT E. DUGDALE
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7
8 /s/ Steven R. Welk
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10 Attorneys for Plaintiff
11 United States of America
12
13

14 DATED: September 20, 2013

MCKENNA LONG & ALDRIDGE LLP

16 /s/ Gary Owen Caris
GARY OWEN CARIS
17 LESLEY ANNE HAWES
18 ATTORNEY FOR RECEIVER
ROBB EVANS & ASSOCIATES LLC
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